1	EDMUND G. BROWN JR., Attorney General		
2	of the State of California MARC D. GREENBAUM		
3	Supervising Deputy Attorney General JENNIFER S. CADY, State Bar No. 100437		
4	Deputy Attorney General 300 So. Spring Street, Suite 1702		
5	Los Angeles, CA 90013 Telephone: (213) 897-2442		
6	Facsimile: (213) 897-2804		
7	Attorneys for Complainant		
8	BEFORE T BOARD OF REGISTE		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10			
11	In the Matter of the Accusation Against:	Case No. 2008-34	
12	PATRICIA ANN BARNETT aka PATRICIA ANN STOECK	ACCUSATION	
13	1100 Bridle Drive Richardson, Texas 75081		
14	Registered Nurse License No. 688176		
15	Respondent.		
16			
17	Complainant alleges:		
18	<u>PARTIES</u>		
19	1. Ruth Ann Terry, M.P.H., R.N	. (Complainant) brings this Accusation	
20	solely in her official capacity as the Executive Officer of the Board of Registered Nursing,		
21	Department of Consumer Affairs.		
22	2. On or about September 5, 200	06, the Board of Registered Nursing issued	
23	Registered Nurse License Number 688176 to Patricia Ann Barnett aka Patricia Ann Stoeck		
24	(Respondent). The Registered Nurse License was in full force and effect at all times relevant to		
25	the charges brought herein and will expire on September 30, 2008, unless renewed.		
26	3. Respondent holds the following	ng nursing licenses issued by other	
27	jurisdictions: a) State of Texas, RN 242491, which expires on or about August 30, 2009 and		
28	b) State of Alaska RN 26597, which expires on or	about November 29, 2008.	

JURISDICTION

4. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

- 5. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.
 - 7. Section 2761 of the Code states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

. . .

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

. . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof. . . ."

///

1

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

5

6

7

8

9

10 11

12 13

14 15

16 17

18

19

21

22

20

23

24 25

26

27

28

111

111

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof..."

Section 490 of the Code states: 9.

"A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

10. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

11. California Code of Regulations, title 16, section 1444, states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. . . ."

COST RECOVERY

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct / Dangerous Use of Alcohol)

13. Respondent is subject to disciplinary action under sections 2750, 2761, subdivision (a), and 2762, subdivision (b) of the Code, in that Respondent committed acts constituting unprofessional conduct by using alcoholic beverages to an extent or in a manner dangerous to herself, other persons, or the public or to the extent that such use of alcoholic

28 | ///

beverages impaired her ability to conduct with safety to the public the practice authorized by her license. The circumstances are as follows:

A. On or about March 22, 2007, Respondent reported one hour late for the 7:00 a.m. to 7:00 p.m. shift at Long Beach Memorial Hospital Medical Center, located in Long Beach, California. Respondent, who was a traveler nurse employed by the On Assignment Nurse Travel Agency and assigned to work at Long Beach Memorial, was scheduled to work on May 22nd in the Neonatal Intensive Care Unit (NICU). The NICU Clinical Operations Manager observed that Respondent's gait was unsteady, her speech was slow and slurred, her pupils were widely dilated and she had an odor of alcoholic beverages on her breath. The NICU manager determined that Respondent was unable to safely care for patients. Respondent was sent home in a taxi. Respondent was terminated by On Assignment Nurse Travel Agency due to suspicion of intoxication.

SECOND CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

- 14. Respondent is subject to disciplinary action under sections 2750, 2761, subdivision (f), 2765 and 490 of the Code, in conjunction with California Code of Regulations, title 16, section 1444, in that Respondent was convicted of a crime which is substantially related to the qualifications, functions and duties of a licensed registered nurse, as follows:
- A. On or about January 4, 2008, Respondent was convicted by the Court on pleas of guilty to one misdemeanor count of violating Vehicle Code section 23152, subdivision (a), (driving under the influence of alcohol), and one misdemeanor count of violating Vehicle Code section 23152, subdivision (b), (driving with .08% or higher of blood alcohol), in Orange County Superior Court Case No. 07WM04554, entitled *People v. Patricia S. Barnett*.

 Respondent also admitted the allegations that, as to the above offenses, she had a blood alcohol concentration of .20% or more. Respondent was placed on three years informal probation upon terms and conditions of probation including completion of a 12 hour alcohol program and the Mother's Against Drunk Driving Victim's Impact Panel.

1	B. The circumstances surrounding the above convictions are that, on or about		
2	March 3, 2007, Respondent was observed by a Seal Beach Police Officer driving her vehicle at 1		
3	to 2 miles per hour and impeding traffic. Respondent was then observed making an illegal		
4	u-turn into a parking lot. The officer determined that Respondent was so impaired that she could		
5	not safely perform any field sobriety tests and Respondent was arrested for driving under the		
6	influence.		
7	THIRD CAUSE FOR DISCIPLINE		
8	(Conviction Involving Alcohol)		
9	15. Respondent is subject to disciplinary action under sections 2750, 2761,		
10	subdivision (a), and 2762, subdivision (c), of the Code, in that Respondent was convicted of a		
11	crime involving alcohol, as more fully set forth in paragraph 14, above.		
12	FOURTH CAUSE FOR DISCIPLINE		
13	(Violation of Act)		
14	16. Respondent is subject to disciplinary action pursuant to sections 2750 and		
15	2761, subdivision (d), in that Respondent violated the provisions or terms of the Nursing Practice		
16	Act, or regulations adopted pursuant to it, as more fully set forth in paragraphs 13 through 15,		
17	above.		
18	<u>PRAYER</u>		
19	WHEREFORE, Complainant requests that a hearing be held on the matters herein		
20	alleged, and that following the hearing, the Board of Registered Nursing issue a decision:		
21	1. Revoking or suspending Registered Nurse License Number 688176, issued		
22	to Patricia Ann Barnett aka Patricia Ann Stoeck.		
23	2. Ordering Patricia Ann Barnett to pay the Board of Registered Nursing the		
24	reasonable costs of the investigation and enforcement of this case, pursuant to Business and		
25	Professions Code section 125.3;		
26	///		
27	///		
28	///		

1		3. Taking such other and further action as deemed necessary and proper.
2		
3	DATED:	6/18/08
4		
5		P. St. And Tre-
6		RUTH ANN TERRY, M.P.H., R.N. Executive Officer
7		Board of Registered Nursing Department of Consumer Affairs State of California
8		State of California Complainant
9		
10		
11		•
12	LA2008600642	
13	60305229.wpd	
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24	·	
25		
26		
	1	